

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION) MDL 2804
THIS DOCUMENT RELATES TO:) Case No. 1:17-md-2804
All Cases Naming Novartis Pharmaceuticals Corporation as Defendant) Judge Dan Aaron Polster

STATUS REPORT OF DEFENDANT
NOVARTIS PHARMACEUTICALS CORPORATION

Defendant Novartis Pharmaceuticals Corporation (“NPC”), by its undersigned counsel, submits this status report in accordance with the Court’s Order entered April 21, 2022 [Dkt. 4380].

POSITION ON SETTLEMENT

NPC has been erroneously named in the cases filed against it, because it has never manufactured, marketed, promoted, distributed, or sold any opioid medications. NPC believes it is likely it has been named in certain cases because Plaintiffs have mistaken the separate corporate identities of NPC and its ultimate corporate parent, which is also the ultimate corporate parent of Defendant Sandoz Inc. (“Sandoz”). Sandoz has separately filed a Status Report with the Court. However, NPC is not the direct or indirect corporate parent or subsidiary of Sandoz, nor is it a successor entity to Sandoz as some captions erroneously state, and is not responsible for any medications manufactured, marketed, distributed or sold by Sandoz and therefore does not belong in this litigation at all.

While NPC steadfastly maintains it is an improper party to this litigation, NPC believes settlement negotiations will provide it with the opportunity to demonstrate the separate corporate identities of NPC, Sandoz, and their parent companies and may result in the voluntary dismissal of NPC and parent and affiliate companies from the cases in which they have been erroneously

named, in conjunction with settlement negotiations between Plaintiffs and Sandoz. Accordingly, NPC adopts and incorporates Sandoz' position statement on settlement as set forth in its Status Report only insofar as NPC wishes to engage in these discussions to explain why it should be dismissed from all cases in which it is named.

POSITION ON ADDITIONAL BELLWETHERS

NPC respectfully submits that scheduling of additional bellwether trials and bellwether tracks is not appropriate as to either NPC or Sandoz, with whom it has been inappropriately named in its cases. As just described, NPC has never manufactured, marketed, promoted, distributed, or sold any opioid medications. Accordingly, setting NPC on a bellwether track would result in needless expenditure of time and resources conducting formal discovery with respect to NPC's non-manufacture and non-sale of opioid medications, when clarifying such a basic issue is better addressed through informal discussion and cooperative resolution.

In the event the Court disagrees and anticipates placing NPC on a bellwether track, NPC adopts and incorporates Sandoz' Status Report and Sandoz' position with respect to the appropriate path forward. Like Sandoz, NPC has not been a named Defendant in any bellwether track in this MDL or any state court proceeding, has neither taken nor responded to substantive discovery in any proceeding, has not participated in fact or expert discovery, and has had only limited interactions with Plaintiffs' counsel in this or any related proceeding. Accordingly, like Sandoz, NPC requests entry of a case management order affording NPC an opportunity to be provided and to review Plaintiff Fact Sheets ("PFSes") and limited initial disclosures from those Plaintiffs naming NPC as Defendant, so that NPC may ascertain the bases for its inclusion as a Defendant and, in particular, may identify why Plaintiffs have erroneously named NPC as a Defendant—an

important question for purposes of identifying whether there are any viable bellwether tracks in which NPC is named as a Defendant.

Accordingly, in the event the Court decides it is appropriate to place NPC on a bellwether track, NPC respectfully requests that the Court enter a case management order: (1) directing those Plaintiffs that have named NPC as a Defendant to provide NPC within 30 days with their PFSes or to confirm that they have not yet prepared a PFS; (2) directing Plaintiffs' designated representative and NPC to meet-and-confer within 30 days after production of the PFSes regarding NPC's position that it has been erroneously named in all cases against it, and, if necessary, regarding a plan for an initial round of discovery to provide Plaintiffs and NPC with sufficient information to address threshold liability issues and to provide the Court with meaningful proposals regarding specific cases to be named as new bellwether tracks with respect to NPC; and (3) directing Plaintiffs' designated representative and NPC to provide to the Court within 60 days after production of the PFSes their agreed proposal or competing proposals either as to the dismissal of NPC as a named Defendant or to complete discovery and to proceed with specific proposals to create a bellwether track for NPC.

Dated: June 16, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 16, 2022, the foregoing was filed using the Court's CM/ECF filing system and will be served via the Court's CM/ECF filing system on all attorneys of record.

Dated: June 16, 2022

Respectfully submitted,

/s/ Gregory E. Ostfeld

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